

169 FERC ¶ 62,020
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Appalachian Power Company

Project No. 739-063

ORDER APPROVING RESERVOIR DRAWDOWN PLAN PURSUANT TO
ARTICLE 405

(Issued October 10, 2019)

1. On May 31, 2019, Appalachian Power Company, licensee for the Claytor Hydroelectric Project No. 739 filed a Reservoir Drawdown Plan, for Commission approval, pursuant to Article 405 of the license.¹ The project is located on the New River, in Pulaski County, Virginia, and does not occupy any federal lands.

Background

2. Article 405 of the license requires the licensee to file, for Commission approval, a reservoir drawdown plan at least three months prior to implementing a non-emergency reservoir drawdown. The purpose of the plan is to minimize the effect of any project maintenance activity requiring a reservoir drawdown on aquatic resources in the project reservoir and downstream of the project, and to allow shoreline property owners sufficient time to plan shoreline maintenance activities.

3. Article 405 requires the licensee to prepare the plan after consulting with, the U.S. Fish and Wildlife Service (FWS), the Virginia Department of Game and Inland Fisheries (Virginia DGIF), the Virginia Department of Conservation and Recreation (Virginia DCR), the Virginia Department of Environmental Quality (Virginia DEQ), Pulaski County, the New River Valley Planning District Committee (New River Valley), and the Friends of Claytor Lake (Friends). The licensee must include with the plan documentation of consultation, copies of comments, and recommendations on the completed plan after it has been prepared and provided to the agencies, and specific descriptions of how the plan accommodated the agencies' comments. The licensee must allow a minimum of 30 days for the agencies to comment, and make recommendations before filing the plan with the Commission. If the licensee does not adopt a recommendation, the filing must include the licensee's reasons based on project-specific information.

¹ *Appalachian Power Company*, 137 FERC ¶ 62,258 (2011).

4. The licensee must notify the public and property owners along the shoreline by mail of the drawdown 45 days prior to implementing the drawdown to allow property owners sufficient time to plan shoreline maintenance activities. The notification must include rate (feet per day), limit in feet, and term of the drawdown. The Commission reserves the right to require changes to the plan. Upon Commission approval of the plan, the licensee must implement it, including any changes required by the Commission.

5. The Commission approved a previous drawdown plan in 2012 that allowed shoreline property owners enough time to conduct shoreline maintenance activities.² The Commission also approved a drawdown plan in 2014;³ however, the licensee canceled the drawdown at the request of Pulaski County due to problems with Pulaski County's water intake in the lake. The Commission also approved a drawdown plan, in 2015;⁴ however, rain and higher flows affected full implementation of the plan. Lastly, in 2017,⁵ the Commission approved a drawdown plan that was implemented with a five foot drawdown.

Licensee's Plan

6. In its drawdown plan, the licensee proposes an impoundment drawdown of five feet from the normal impoundment elevation of 1,846 feet National Geodetic Vertical Datum (NGVD) to allow property owners to perform shoreline maintenance and construction activities. The drawdown would begin by lowering the impoundment elevation by one-foot per day starting on November 4, 2019, at 8:00 a.m., and continuing until the reservoir reaches 1,841 feet NGVD, by November 9, 2019, at 8:00 a.m. The duration of the drawdown would be nine days, including two weekends. The licensee would begin refilling the reservoir on November 17, 2019, at 10:00 p.m., and return to normal elevation by November 22, 2019, at 10:00 p.m., depending on inflow. The licensee would inform the public about the drawdown at least 45 days prior to its implementation.

7. The licensee proposes to increase its efforts to measure and reduce impacts to mussels, within Claytor Lake, caused by the drawdown. The licensee would work with the Friends to encourage participation, and to provide information about the drawdown and the importance of mussel salvage. This information will educate the public about

² *Appalachian Power Company*, 141 FERC ¶ 62,008 (2012).

³ *Appalachian Power Company*, 148 FERC ¶ 62,194 (2014).

⁴ *Appalachian Power Company*, 151 FERC ¶ 62,230 (2015).

⁵ *Appalachian Power Company*, 159 FERC ¶ 62,271 (2017).

mussel salvage through media, mailings, phone calls, and the internet. In addition, information will be gathered regarding Asian Clams, pistolgrip, and other mussels, by means of sending a questionnaire card to land owners and volunteers just prior to the drawdown.

8. The licensee proposes to assess the impact to mussels based on the information collected during the drawdown. A mussel salvage event would take place on the first Saturday of the full drawdown to increase the number of dewatered mussels returned to the water. The licensee and the cooperating agencies would conduct meetings for organizers and team leaders prior to the event, during the event, and on Saturday morning prior to the arrival of volunteers. The licensee and the cooperating agencies would organize the event, and train and coordinate team leaders in mussel identification, location and data collection, site and volunteer selection, and logistics of the event. The licensee and cooperating agencies would select and prioritize sites based on likely mussel habitat and previous mussel findings. The licensee, the Friends, the Virginia DGIF, the Claytor Lake State Park, Pulaski County, and others would provide volunteers and team leaders, boat transportation, materials, meeting locations, and refreshments.

9. The Virginia DGIF would provide volunteer training prior to deployment in teams with team leaders on Saturday morning. The Virginia DGIF would provide up to three teams that had previous experience in mussel identification to identify and tally mussels by species. In addition, other volunteer teams would focus on counting and salvaging total numbers of mussels. The plan allows for changes to the proposed drawdown, such as the dates and duration, for unforeseen circumstances, and the licensee proposes to base future drawdown plans on previous years' results.

Consultation

10. The licensee provided a copy of the draft plan proposing a three-foot drawdown to Virginia DGIF, Virginia DCR, Virginia DEQ, Pulaski County, and the Friends on April 16, 2019, and the FWS, and the New River Valley on April 17, 2019. The licensee provided 30 days for comments. The licensee received comments from Pulaski County, New River Valley, Virginia DGIF, Virginia DCR, and the Friends.

11. On April 22, 2019, the Pulaski County Administrator conveyed the Pulaski County Board of Supervisors' request for a five-foot drawdown rather than the proposed three-foot drawdown. The county stated that the five-foot drawdown would allow its citizen and property owners the ability to more safely, effectively and cost effectively clean debris, properly maintain their structures, and install necessary erosion control measures along the shorelines that would ultimately benefit the licensee, the county, and the lake ecosystem.

12. The New River Valley, on May 2, 2019, responded that the plan is not in conflict with regional plans, policies, and goals. On May 3, 2019, Virginia DGIF commented that their aquatic biologists reviewed the 2019 drawdown plan, and that based on the freshwater mussels observed and catalogued during the previous drawdowns, they had no concerns about a five-foot drawdown occurring in 2019. The Virginia DCR, on May 3, 2019, commented that they had no concern about the 2019 five-foot drawdown. On May 6, 2019, the Friends strongly urged the licensee to implement a five-foot drawdown to enable more people to use the drawdown for shoreline maintenance.

13. The licensee explains that the drawdown was also discussed at the Water Quality/Water Management Technical Review Committee Annual meeting held on May 16, 2019. Following the requests for a five-foot drawdown, the licensee sent a revised five-foot drawdown plan to the resource agencies on May 21, 2019, and provided 10 days for comments. The licensee received appreciation from Pulaski County and the Friends, and no additional comments were received.

Review

14. The licensee's drawdown plan is necessary to allow property owners to perform shoreline maintenance and construction activities. The licensee provided the agencies and stakeholders 30 days to comment on the draft drawdown plan as required under Article 405. The relatively slow drawdown and refill of the reservoir should minimize any adverse effects to aquatic resources. In addition, performing the drawdown during the month of November, when temperatures are colder and vegetative and animal activities reduced, should minimize the effects on recreation and on biological resources. The licensee, in cooperation with the resource agencies and stakeholders, is taking measures to reduce impacts to mussels within Claytor Lake caused by the drawdown. The licensee has adequately consulted and involved the resource agencies, local governments, stakeholders, and residents along the Claytor reservoir. Based on our review, the licensee's plan to drawdown the Claytor reservoir by as much as five feet for a period of nine days during November 2019 should be approved.

The Director orders:

(A) Appalachian Power Company's Reservoir Drawdown Plan, filed May 31, 2019, for the Claytor Hydroelectric Project No. 739, pursuant to Article 405 of the license, to allow a drawdown of Claytor reservoir by as much as five feet, for a period of nine days during November 2019, in order to allow property owners to perform shoreline maintenance and construction activities is approved. The temporary drawdown is approved until November 17, 2019.

(B) The Order constitutes final agency action. Any party may file a request for rehearing of this order within 30 days from the date of its issuance, as provided in

Project No. 739-063

- 5 -

section 313(a) of the Federal Power Act, 16 U.S.C. § 825*l* (2018), and the Commission's regulations at 18 C.F.R. § 385.713 (2019). The filing of a request for rehearing does not operate as a stay of the effective date of this order, or of any other date specified in this order. The licensee's failure to file a request for rehearing shall constitute acceptance of this order

Kelly Houff
Chief, Engineering Resources Branch
Division of Hydropower Administration
and Compliance

Document Content(s)

P-739-063.DOCX.....1-5